

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DAVID C. JOHNSON,

Plaintiff,

vs.

Civil Action 2:12-cv-0100  
Judge Frost  
Magistrate Judge King

CITY OF PATASKALA,

Defendant.

ORDER

This case was originally referred to the December 2012 Settlement Week. *Preliminary Pretrial Order*, Doc. No. 7; *Notice of Hearing*, Doc. No. 11. Upon the parties' joint motion, the case was thereafter referred to the March 2013 Settlement Week. *Order*, Doc. No. 13; *Notice of Hearing*, Doc. No. 14. This matter is now before the Court on the parties' second joint motion to continue the referral of the case to Settlement Week. Doc. No. 16.

In their motion, the parties represent that discovery is on-going and suggest that the depositions of fact witnesses will not be completed prior to the scheduled March 2013 Settlement Week mediation. The parties specifically ask that the case be referred to the June 2013 Settlement Week.

All non-expert discovery is to be completed by February 28, 2013 and motions for summary judgment are due no later than April 15, 2013. *Preliminary Pretrial Order*, Doc. No. 7. It is not clear to the Court why the case cannot be effectively mediated during the March 2013 Settlement Week. Moreover, it is unlikely that any motion for summary

judgment will have been resolved by the June Settlement Week, a fact that militates against referral of the case to the June 2013 Settlement Week. Nevertheless, the Court will not require the parties, or the volunteer mediator assigned to the March Settlement Week, to engage in what the parties apparently believe would be an exercise in futility.

The parties' joint motion to vacate the March 2013 Settlement Week, Doc. No. 16, is therefore **GRANTED**. The Clerk shall notify the assigned mediator.

However, the Court will **not** refer the case to the June 2013 Settlement Week.

February 5, 2013

*s/Norah McCann King*  
Norah M<sup>c</sup>Cann King  
United States Magistrate Judge